

**City of Newport Beach**  
**Development Impact Fee Report**  
**Fiscal Year 2013-14**

**Background**

The City's Fair Share Fee program was originally adopted in 1984, updated in 1994 and adjusted periodically based upon the consumer price index. The purpose of the Fair Share Fee program is to equitably distribute the cost of traffic congestion reduction improvements to the future development that generates the need for such projects. The fair share traffic contribution is based upon the unfunded portion of the estimated construction cost of the total circulation system roadway improvements necessary to implement the master plan of streets and highways (net roadway costs), and the total number of vehicle trips anticipated as a result of trend growth.

The Mitigation Fee Act, *Government Code §66000 et seq.*, (the "Act"), the bulk of which were adopted as 1987's AB 1600 and are commonly referred to as "AB 1600 requirements" governs the establishment and administration of development impact fees paid by new development projects for public facilities needed to serve new development. Fees must be separately accounted for and used for the specific purpose for which the fee was imposed.

**Annual Reporting**

The Act requires that the City prepare an annual report detailing the status of collected development impact fees as defined in the Act. The annual report must be made available to the public and presented to the City Council not less than fifteen (15) days after it is made available to the public at the next regularly scheduled City Council meeting. The meeting before the City Council must be held within one hundred eighty (180) days of the end of the fiscal year. The report must include the type of fee, beginning and ending balances, the amount of fees collected and interest earned, expenditures by type, a description of interfund transfers or loans, and the amount of any refunds made.

Excluded from this report are types of developer fees that are not subject to the reporting requirements of the Act. For example, fees collected pursuant to the City's zoning powers, rather than pursuant to the Act, are in-lieu housing fees, public art-in-lieu fees and park-in-lieu fees.

### Annual Report

To comply with *Government Code §66006*, the following information regarding AB 1600 fees is presented:

- 1) A brief description of the type of fee in the account or fund:

Fair Share Fees - These fees provide funding to accommodate traffic generated by future development within the City and are separately accounted for in the Circulation & Transportation Fund.

- 2) The amount of the Fair Share Fee:

Fair Share rate is \$198.11 per trip for FY 2013-14.

- 3) The Beginning & Ending balance of the account or fund:

See attached Financial Report.

- 4) The amount of fees collected and interest earned:

See attached Financial Report.

- 5) An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with the fees:

See attached Financial Report.

- 6) An identification of an approximate date by which the construction of the public improvements will commence if the City determines that sufficient funds have been collected to complete financing on an incomplete public improvement, as identified in the City's master plans, and the public improvement remains incomplete:

New FY 2013-14 public improvement projects are underway and expected to be completed by winter of 2015.

- 7) A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and in the case of an interfund loan, the date on which the loan will be repaid, and the rate of interest that the account or fund will receive on the loan:

The City entered into a Circulation Improvement and Open Space Agreement (CIOSA) with a developer whereby the City received a loan of \$14,395,572 to be used only for certain transportation and circulation improvements. The City agreed to match the contribution (without interest) by pledging 50% of future Fair Share fees (developer impact fees) which are recorded in the Circulation and Transportation special revenue fund. During the year ended June 30, 2014, the City received \$189,352 of Fair Share Fees, and \$94,676 was paid to the CIOSA Construction capital projects fund. Through June 30, 2014, \$4,874,741 of fair share fees have been paid. No additional liability has been recorded because any future repayment is uncertain; any amount not contributed by February 20, 2016 will be forgiven.

In FY 2013-14 the City transferred \$80,000 to the General Fund in administrative reimbursement for time spent by staff on public improvement projects.

In FY 2013-14 the City transferred in \$171,296 from the Measure M fund to reimburse the Circulation and Transportation fund for prior year expenditures inadvertently charged to the Circulation and Transportation fund.

- 8) The amount of refunds made pursuant to subdivision (f) of Section 66001 any allocation pursuant to subdivision (f) of Section 66001.

No refunds were made during the fiscal year.

Fair Share Revenues, Expenditures & Changes in Fund Balance			
FY 2013-2014			
		Total Project Costs (FY Only)	% Fair Share Funded
<b>Revenues:</b>			
Fair Share Fees	\$ 189,352		
Total Revenues	<u>189,352</u>		
<b>Expenditures:</b>			
<b>Capital Improvement Projects</b>			
Traffic Signal Modernization Phase 6 (C3002018)	(194)	(111,079)	0.2%
Jamboree Road Improvement Bristol/FRC (C2002019)	(1,281)	(1,281)	100.0%
Traffic Signal Modernization Phase 5 (C3002009)	<u>(1,230)</u>	<u>(1,230)</u>	100.0%
	<u>(2,705)</u>	<u>(113,590)</u>	2.4%
<b>Transfers In/(Out):</b>			
Transfer In	171,296		
Transfer Out - CIOSA Fund (Pledged Fair Share Fees)	(94,676)		
Transfer Out - General Fund (Administrative Reimbursement)	<u>(80,000)</u>		
Total Transfers	<u>(3,380)</u>		
Net Change in fund balance	183,266		
Fund Balance, beginning	<u>(522,860)</u>		
Fund Balance, ending	<u>\$ (339,594)</u>		

### Description of Projects

#### **Traffic Signal Modernization Phase 6 (C3002018)**

The City Council awarded Traffic Signal Modernization Phase 6 contract to Elecnor Belco Electric, Inc. on May 13, 2014. Traffic Signal Modernization is a multi-year, multi-phased program to update the City's traffic signal system. Phase 6 includes installation of new hardware, fiber optic cable upgrades and installation of CCTV cameras to intersections along San Joaquin Hills Road, including connection to City Hall and Ridge Park Road, and intersections along Newport Coast Drive corridors, including Pelican Hills Road South. Construction along San Joaquin Hills Road upgrades seven existing signalized intersections, including one intersection on Ridge Park Road, while construction along Newport Coast Drive upgrades ten existing signalized intersections, including two intersections on Pelican Hills Road South. Most of the project is funded with Measure M funds and gas tax revenue. This phase is planned to be completed in Winter 2015.

**Jamboree Road Improvement Bristol/FRC (C2002019)**

This project involves the widening of Jamboree Road at the intersection of MacArthur Boulevard to accommodate an additional northbound thru lane on Jamboree Road and an additional southbound left turn lane on Jamboree Road onto MacArthur Boulevard. This project also involves right-of-way acquisition and roadway widening in the City of Irvine and is dependent on their cooperation and assistance. The construction contract was awarded by the City Council to GMC Engineering, Inc., on September 25, 2012 and the contract was completed and found acceptable on March 26, 2013. Most of this project was funded with Measure M funds, with a portion of the engineering services paid with fair share funds. The remaining expenditures in FY 2013-2014 were for additional project support.

**Traffic Signal Modernization Phase 5 (C3002009)**

This project is a multi-year, multi-phased program to update the City's traffic signal system. Phase 5 includes hardware and fiber optic cable upgrades to a total of 11 existing intersections in and around Newport Center. Installation of 3 new CCTV cameras will provide views of all major entry points to Fashion Island. The work also includes the installation of a new signal at Anacapa Drive and Newport Center Drive and left turn signal phasing and lane modifications at San Miguel Road and Newport Center Drive. The construction contract was awarded by the City Council to Select Electric on June 14, 2011 and completed on June 12, 2012. The remaining expenditures in FY 2013-14 were for additional project support.

**City of Newport Beach**  
**Development Agreements Report**  
**Fiscal Year 2013-14**

**Background**

A Development Agreement (“DA”) is a contract between a local jurisdiction and a person who has ownership or control of property within the jurisdiction. The purpose of the agreement is to specify the standards and conditions that will govern development of the property. The development agreement provides assurance to the developer that he/she may proceed to develop the project subject to the rules and regulations in effect at the time of approval - the development will not be subject to subsequent changes in regulations.

DA should also benefit the local jurisdiction. The city or county may include conditions (mitigation measures) that must be met to assure that a project at a specific location does not have unacceptable impacts on neighboring properties or community infrastructure. The agreement may clarify how the project will be phased, the required timing of public improvements, the developer's contribution toward funding system-wide community improvements, and other conditions. The agreement can also facilitate enforcement of requirements, since it is a contract that details the obligations of the developer and local jurisdiction.

**Annual Reporting**

For DAs entered into or after January 1, 2004, *Government Code §65865 (e)* requires that the City shall comply with the reporting requirements pursuant to *Government Code §66000*, with respect to any fee the City receives or cost it recovers. *Government Code §66006* requires the City to submit annual and five (5) year notices detailing the status of collected public benefit fees, and be placed on the agenda for review at a public meeting not less than 15 days after the report is made available to the public. The meeting before the City Council must be held within one hundred eighty (180) days of the end of the fiscal year. The report must include the beginning and ending balances, the amount of fees collected and interest earned, expenditures by type, a description of interfund transfers or loans, and the amount of any refunds made.

Excluded from this report are types of developer fees that are not subject to the reporting requirements under *Government Code §65865(e)*. For example, these include fees collected pursuant to the City’s zoning powers, such as in-lieu housing fees, public art-in-lieu fees and park-in-lieu fees.

### Annual Report

To comply with *Government Code §66006*, the following information regarding DAs Fee is presented:

- 1) A brief description of the type of public benefit fee in the account or fund:

North Newport Center Development Agreement – On December 18, 2007, the City Council adopted Ordinance No. 2007-21 approving Development Agreement (“DA”) No. DA2007-002 between the City and The Irvine Company. The DA granted The Irvine Company entitlement and transfer rights within the North Newport Center Planned Community (“NNCPC”). On August 24, 2012, the City Council adopted Ordinance No. 2012-20, amending the DA to vest the revised development intensities and allocations within the NNCPC and to establish public benefits for the City. The DA specifies the term, permitted uses, density and intensity of development, circulation improvements, public benefits and dedication of street right-of-way and open space. Public benefit fees were required to be paid by The Irvine Company as part of the DA approval, and are accounted for in the Facilities Financing Planning Reserve Fund.

- 2) The amount of the DA fees:

There were no fees received in Fiscal Year 2013-2014.

- 3) The Beginning & Ending balance of individual DAs:

Both the Beginning and Ending balance of the DA was zero.

- 4) The amount of DA fees collected and interest earned:

There were no fees collected and no interest earned during the fiscal year.

- 5) An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with the fees:

There were no expenditures during the fiscal year.

- 6) An identification of an approximate date by which the construction of the public improvements will commence if the City determines that sufficient funds have been collected to complete financing on an incomplete public improvement, as identified in the City’s master plans, and the public improvement remains incomplete:

All Development Agreement funds had been expended and construction completed in prior years.

- 7) A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and in the case of an interfund loan, the date on which the loan will be repaid, and the rate of interest that the account or fund will receive on the loan:

There were no interfund transfers or loans made during the fiscal year.

- 8) The amount of refunds made pursuant to subdivision (f) of *Government Code §66001* any allocation pursuant to subdivision (f) of *Government Code §66001*.

No refunds were made during the fiscal year.